

Kentucky Revenue Cabinet



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Judge Orders Tax Credit On Used Cars Purchased Out Of State

On Jan. 3, 2001, Jefferson Circuit Court Judge Lisabeth Hughes Abramson ruled that the Kentucky statute which allows a trade-in credit against the 6 percent motor vehicle usage tax imposed on used cars purchased in Kentucky, but denies the trade-in credit for used cars purchased out of state, is unconstitutional under the Commerce Clause of the U.S. Constitution. The judge further ordered the Commonwealth to grant the trade-in allowance on all purchases of used motor vehicles when another used motor vehicle is traded as part of the same transaction. On Jan. 5, the Revenue Cabinet directed the county clerks to implement the change immediately.

In the case, *McGaren et al v. Comm., Revenue Cabinet*, the plaintiffs have asked the judge to certify a class of similarly situated taxpayers and are seeking refunds of taxes previously paid. No ruling has been issued on these matters, so it is uncertain at this time how many taxpayers may be affected or the amount of any potential refunds.

More than 560,000 vehicles come into Kentucky from out of state each year. As many as 20,000 of those vehicles may involve the trade-in credit issue. According to Revenue Secretary Mike Haydon, the records on new registrations of used vehicles are maintained without distinction as to where the purchase was made or whether a trade-in was involved.

The motor vehicle usage tax produces more than \$350 million annually, representing more than one-third of the state's annual Road Fund receipts. It is estimated that the court's ruling could result in a recurring annual revenue loss to the Road Fund of \$6 to \$7 million.

If a taxpayer purchased a used vehicle out of state and traded in a vehicle previously registered in Kentucky, he or she may be entitled to a refund if ordered by the court. A protective refund claim should be submitted to the Kentucky Revenue Cabinet. A form for providing the necessary information will be available on Tuesday, Jan. 16, 2001 in all 120 county clerks' offices, or may be downloaded immediately from KRC's Web site at <http://www.state.ky.us/agencies/revenue>.

Expansion of the trade-in credit to vehicles purchased out of state was proposed as part of the Patton administration's tax reform initiative during the 2000 General Assembly. "I accept Judge Abramson's ruling," Patton stated. "In fact, I proposed this very change before the 2000 General Assembly. To continue to defend a statute so clearly flawed would bring more discredit to the state tax system. This is simply an issue of fairness," said Patton.